

REMARKS

Procedural Matter:

The Final Office Action did not indicate whether or not the drawing amendments filed on March 12, 2009 were accepted. *See* Final Office Action coversheet PTOL-326. Applicants request that the Examiner consider and enter the drawing amendments filed on March 12, 2009, and indicate their acceptance in the next communication from the Office.

Final Office Action and Claim Amendments:

Applicants have amended claims 24 and 42-44 to improve form. Claims 23-25, 27-31, and 33-44 remain pending and under examination. Applicants respectfully traverse the following objection and rejections made in the Final Office Action:

- (1) objection to claims 42-44;
- (2) rejection of claims 42-44 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement; and
- (3) rejection of claims 23-25, 27-31, and 33-43 under 35 U.S.C. § 103(a) as being unpatentable over “the instant application’s disclosed prior art” (“Prior Art”).

Objection to Claims 42-44:

The Final Office Action asserted that “the phrase ‘loadable into’ should be removed in order to render said claims definite.” Final Office Action, page 2. Applicants respectfully disagree because removing the phrase would render the claim language unreadable. To advance prosecution, however, Applicants have amended these claims to recite “loaded” instead of “loadable into,” thereby preserving the readability of these claims and overcoming the objection. Accordingly, Applicants respectfully request its withdrawal.

Rejection of Claims 42-44 under 35 U.S.C. § 112, First Paragraph:

The Final Office Action alleged that “at least one of the ‘computer readable medium’ and ‘internal memory’ [recited in claims 42-44] was not described in the original disclosure of the invention.” Final Office Action, pages 2-3. This is incorrect. The above-quoted claimed elements are supported by the specification at, for example, page 3, lines 5-11. Specifically, the specification discloses “computer program products directly loadable into the memory of a computer.” *Id.* (emphasis added). Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 112, first paragraph, rejection.

Rejection of Claims 23-25, 27-31, and 33-43 under 35 U.S.C. § 103(a):

Applicants request reconsideration and withdrawn of the rejection of claims 23-25, 27-31, and 33-43 under 35 U.S.C. § 103(a) as being unpatentable over *Prior Art*.

First, in the “Response to Arguments” section of the Final Office Action, the Examiner asserted that Applicants’ arguments “have been considered but are moot in view of new ground(s) of rejection.” Final Office Action, page 2. In this case, the M.P.E.P. requires that “[t]he examiner must, however, address any arguments presented by the applicant which are still relevant to any references being applied.” M.P.E.P. § 707.07(f). However, here the Final Office Action applied the same art and nearly identical reasons to reject Applicants’ amended claims *without* addressing any arguments presented by the Applicants in the Amendment filed March 12, 2009. *See* Final Office Action, pages 3-6. Therefore, the final rejections of pending claims are improper for at least this reason.

Second, the Final Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v.*

Teleflex Inc., 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Final Office Action has not properly determined the scope and content of the prior art, nor has the Final Office Action properly ascertained the differences between the claimed invention and the prior art, at least because the Final Office Action has not properly interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Specifically, *Prior Art* does not disclose or suggest at least the following claim elements recited in claim 23 (claim 28 containing similar recitations):

assigning to said terminals respective non-overlapping sets of
samples or positions within said plurality of sets of
samples; and
transmitting, simultaneously, a first set ($X_1, X_2, \dots X_N$) of non-zero
first samples pertaining to a first terminal of said plurality
by inserting said first samples in the respective position
assigned to said first terminal, and a second set ($X_{N+1}, X_{N+2},$
 $\dots X_{2N}$) of non-zero second samples pertaining to a second
terminal of said plurality by inserting said second samples
in the respective position assigned to said second terminal.

The Final Office Action admitted that *Prior Art* “does not expressly teach” the above claim elements. See Final Office Action, pages 3-4. However, the Final Office Action alleged that “it is obvious and/or a matter of design choice to assign different/distinct (non-overlapping) subspaces in a buffer to different sets of samples belonging to different terminals.” Final Office Action, page 4. Applicants disagree with the Final Office Action’s allegations and note that *Prior Art* teaches that “[c]urrent WLAN standards such as IEEE 802.11a and IEEE 802.11b provide for all the stations located in a certain access area being connected by sharing only one channel at a time.” Specification, page 1, lines 28-31 (emphasis added). That is, “sharing only

one channel at a time” is part of the current WLAN standards when implementing a WLAN network. Therefore, *Prior Art*, which is based on the *current* standards, does not suggest that more than one channel can be used when implementing a WLAN network. One of ordinary skill in the art at the time of the invention would not have been motivated to implement a WLAN network which shares more than one channel at a time, at least because the *current* standards would not suggest so doing.

Moreover, the OFDM (Orthogonal Frequency Domain Multiplex) disclosed by *Prior Art* is a modulation scheme the MEDIAN Project utilized. *See* Specification, page 2, lines 9-12. However, *Prior Art* discloses that “[a]s in existing standards, in the arrangement according to the MEDIAN Project, only a single channel (200 MHz) is used to implement a WLAN network.” Specification, page 2, lines 13-15. That is, even in the arrangement of MEDIAN Project, a WLAN network with OFDM modulation scheme is still implemented in accordance with *existing* standards with “only a single channel.” *Id.* Therefore, *Prior Art*’s OFDM method and/or system does not suggest “assigning to said terminals respective non-overlapping sets of samples or positions within said plurality of sets of samples,” and “transmitting, simultaneously, a first set ... of non-zero first samples ... and a second set ... of non-zero second samples ...,” as recited in claim 23 (emphases added).

Thus, the Final Office Action has neither properly determined the scope and content of the prior art, nor properly ascertained the differences between the prior art and the claimed invention. Applicants therefore submit that independent claim 23 is not obvious over *Prior Art*. Independent claim 23 should therefore be allowable. Independent claim 28, while different in scope, contains similar recitations as independent claim 23, and should also be allowable for the same reason as independent claim 23. In addition, dependent claims 24, 25, 27, 29-31, and 33-43 should be allowable at least by virtue of their respective dependence from independent

claim 23 or 28, and because they recite additional features not taught or suggested by *Prior Art*. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection.

Conclusion:

Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 23-25, 27-31, and 33-44 are in condition for allowance, and Applicants request a favorable action.

The Final Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Final Office Action.

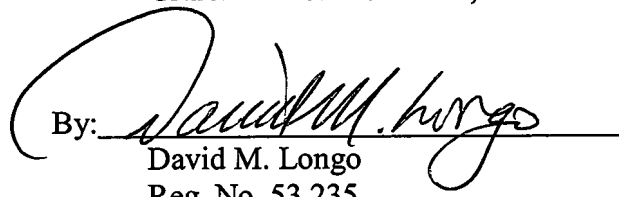
If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: October 22, 2009

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